



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,859	05/11/2006	Jun Kitahara	09947.0009	3333
22852	7590	12/14/2010		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER VAUGHAN, MICHAEL R	
			ART UNIT 2431	PAPER NUMBER
			MAIL DATE 12/14/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,859

Applicant(s)

KITAHARA ET AL.

Examiner

MICHAEL R. VAUGHAN

Art Unit

2431

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **10/18/10** has been entered.

Claims 2-5, 7, and 8 are pending.

Response to Amendment

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 comprises computer readable medium. Computer readable medium include signals. Signals are not a statutory class of invention. In order to overcome this interpretation, the claim should be amended to

only include "non-transitory" computer readable-medium. There is support for this amendment because the original disclosure does not preclude the non-transitory types of computer readable medium.

Response to Arguments

Applicant's arguments with respect to claims 2, 7, and 8 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 7,739,548 to Revital et al, hereinafter Revital in view of USP 6,363,149 to Candelore.

As per claim 2, Revital teaches an information processing apparatus adapted for processing a plurality of contents provided by a contents distribution service having a channel for distributing the plurality of content (col. 10, lines 5-7) including a first content

and a second content distributed after the first content, the information processing apparatus comprising:

main license acquisition means for acquiring a main license [VEMM] having a main condition [access to protected content] applied in common for the plurality of contents, the main license further including main license key information (col. 5, lines 5-7 and col. 10, lines 10-15);

sublicense acquisition means for acquiring, a plurality of sublicenses [VECM's] that correspond to the plurality of contents (col. 5, lines 9-10) and are provided in a manner different from the main license [criteria packaged into VECM as apposed to VCMM], the plurality sublicenses including subconditions for the plurality of contents (col. 9, lines 35-40), identification information of the main license (col. 6, lines 24-25), sublicense key information (col. 5, lines 45-47) the plurality of sublicenses including a first sublicense [any arbitrary first ECM n from Fig. 2] and a second sublicense [any arbitrary second ECM n+1 from Fig. 2] being separate in a manner that the first sublicense include the sublicense key information [CW n] that is different from the sublicense key information of the second sublicense corresponding to the second content [CW n+1] the first content unrelated to the second content in a manner that the first content can be reproduced without the second content [scrambled digital data segment n can be reproduce without the scrambled digital data segment n+1; assess to particular items or portions of protected content; col. 8, lines 44-45];

control means for controlling reproduction of the plurality of contents when the main condition of the main license and subconditions of the plurality of sublicenses are satisfied [properly decrypted] (col. 5, lines 35-37);

wherein when the plurality of contents are distributed via the channel successively in terms of time, the control means determines, while the first content is being reproduced, whether the main condition prescribed by the main license and the subcondition prescribed by the second sublicense are satisfied, and reproduces the second content after reproducing the first content [follows the natural process of streaming content whereby the keys are streamed just prior to needing them for decryption] when the main condition prescribed by the main license and the subcondition prescribed by the second sublicense are both satisfied (col. 3, lines 5-15); and

wherein the main condition and the subcondition include at least one of a time period in which the plurality of contents may be reproduced (VEMM; col. 6, lines 35-40; ECM; col. 14, lines 1-5] and a number of times the plurality of contents may be reproduced.

Revital is silent in explicitly disclosing the licenses have a digital signature. Candelore teaches using digital signatures to secure the transportation of licenses (col. 11, lines 22-24). Candelore goes on to teach that using digital signatures secures transactions from alteration. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine this feature to the licenses of Revital to ensure the licenses are not altered.

Revital is also silent in explicitly disclosing the sublicense acquisition means acquires the first sublicense and the second sublicense while the first content is being acquired. This limitation requires that sublicense information of both the first **and** second content are sent while the first content is acquired. As mentioned above the sublicense is analogous to Revital's ECM and it is sent along with the first content. Prior art Candelore teaches multiple ECMs can be generated each with they own key (control word) and epoch governing the time that key is to be used to reproduce content (sublicense subconditions). Each of these ECMs are packaged together and sent along with the [first] content (col. 10, lines 43-55). Candelore explicitly teaches in a non-limiting embodiment associated with Fig. 6B, that if twelve ECMs were needed to cover the content sent for the next year that all 12 can be sent with initial content. Presumably each month one key/control word would expire, and content received during the subsequent month would use the second key. Thus this teaching reads on the claims first and second sublicense being acquired while the first content is being acquired. This teaching shows that it was known that ECMs can contain license information not just with the content it's sent with but other future content as well. Substituting known methods which produce predictable results is within the ordinary capabilities of one of ordinary skill in the art. The claim is obvious because appending the license information of more than one content to prior to delivery of the second content is predictable. Including several ECMS before the second content as shown in Fig. 2 of Revital is within the ordinary capabilities of one of ordinary skill in the art.

As per claim 3, Revital teaches that during the manufacture of the recipient module an embedded key is stored in the hardware (col. 4, lines 38-42). Revital also teaches that any method of suitable encryption mechanism may be used for encrypting the various types of keys in his invention (col. 9, lines 52-53). Even though Revital does not explicitly call any of the secret keys, public-keys, it would be obvious to one of ordinary skill in the art that public key cryptography could easily be used in this case. The private stored key in the device would be the device's own unique private key. Then, any entity who wishes to create a session key (as taught by Revital and Candelore) would simply encrypt the session key with the device's public key so only that specific device could decrypt the message and obtain the session key. Revital even teaches encrypting one key with another. Candelore teaches public key cryptography as means of transmitting license information (col. 11, lines 24-32). This is a well established algorithm of key exchange. Anyone of ordinary skill in the art would readily use this algorithm. Therefore it would have obvious to one of ordinary skill in the art at the time of the invention to use the well known public key cryptography as a suitable encryption mechanism as Akiyama teaches.

As per claim 4, Revital teaches the second key included in the second license is encrypted and the control means decrypts, by using the first key information, encrypted second key information and uses the second key information to decrypt the acquired content (col. 5, lines 10-16).

As per claim 5, Revital teaches license management means for allowing any other information processing apparatus to permit utilization of the plurality of contents

when the main condition prescribed by the main license and the subconditions prescribed by the plurality of sublicenses are both satisfied (col. 5, lines 31-34).

Claims 7 and 8 are rejected for the same reasons as claim 2.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL R. VAUGHAN whose telephone number is (571)270-7316. The examiner can normally be reached on Monday - Thursday, 7:30am - 5:00pm, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. R. V./

Examiner, Art Unit 2431

/William R. Korzuch/

Supervisory Patent Examiner, Art Unit 2431